

**MEMO ENDORSED**



JUN 17 2008

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NY 10007

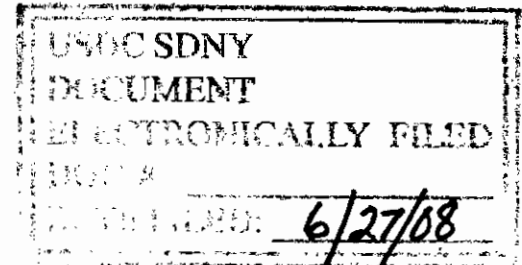
**MICHAEL A. CARDOZO**  
Corporation Counsel

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Assistant Corporation Counsel  
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June 26, 2008

**BY HAND DELIVERY**

Honorable Douglas F. Eaton  
United States Magistrate Judge  
United States District Court  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1360  
New York, New York 10007-1312



Re: Larry McNair v. Commissioner Kelly, et al., 08 CV 3439 (GBD)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for the City of New York. In that capacity, I write to advise the Court of the status of this case.

As Your Honor may be aware, by letter dated May 30, 2008, this Office advised the Court that we had recently received a courtesy copy of a summons and complaint in the above-referenced action and respectfully requested that the Court (1) adjourn the pre-trial conference scheduled for June 25, 2008 until a later time and date, convenient to the Court, after the pleadings have been joined, and (2) hold off in setting a discovery schedule until after the pleadings had been joined. By Order dated June 3, 2008, District Judge Daniels granted our requests.

A copy of defense counsel's May 30, 2008 letter was mailed to plaintiff at George R. Vierno Center on Rikers Island, the address listed for plaintiff on the docket sheet. The letter we sent to plaintiff on May 30, 2008, however, was recently returned to this Office. Upon inquiry, this Office was subsequently advised by the New York City Department of Correction ("D.O.C.") that plaintiff had been released from D.O.C. custody on or about May 21, 2008. To date, plaintiff has not contacted this Office to advise that he is no longer in City custody and or provided an address or telephone number where can be reached.

In reviewing plaintiff's institutional inmate folder, it appears that plaintiff provided an address during his recent period of incarceration. We are mailing a copy of this letter to plaintiff at that address. Notwithstanding, we respectfully submit that it is plaintiff's responsibility to update the Court and defense counsel with his new address. Accordingly, we

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respectfully request that the Court order plaintiff to update the Court with an address where he can be reached by a date certain, on pain of dismissal of this action.

Additionally, and notwithstanding the above, I write to advise the Court that I was recently advised that the individuals identified in the caption of the complaint as Police Commissioner Raymond Kelly, Detective Santiago, Detective Bradley and Detective Levine may have been served with a copy of the summons and complaint.<sup>1</sup> Pursuant to General Municipal Law Section 50-k, this Office must resolve representation issues as to these officers. Accordingly, without making any representation on behalf of these officers, it is respectfully requested that, in the event they were served, their time to answer or otherwise respond to the complaint be enlarged sixty days from today, until September 25, 2008, so that their defenses are not jeopardized while representational issues are being decided.

In view of the foregoing, it is respectfully requested that the Court grant the within requests. Thank you for your consideration herein.

Respectfully submitted,

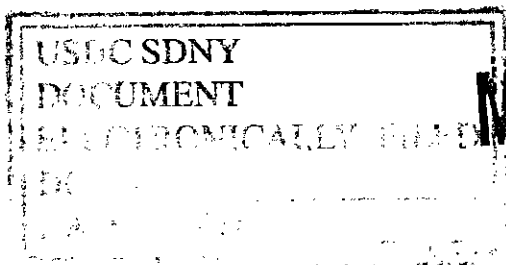
*[Signature]*  
 Brian Francolla  
 Assistant Corporation Counsel  
 Special Federal Litigation Division

cc: Larry McNair (By mail to last known address)  
 Plaintiff *Pro Se*  
 317 West 47<sup>th</sup> Street  
 Apartment 610  
 New York, New York 10036

*6/27/08 - I grant this request. Mr. McNair is required to give prompt written notice to Mr. Francolla, and to the Pro Se Office, and to my chambers, of any change of address. I enclose another copy of my 6/24/08 Memorandum and Order.*

*Douglas F. Eaton*

<sup>1</sup> According to the docket sheet, the individuals identified in the caption of the complaint as Detective Valentin and E.S.U. Detective Kesthelfi have not been served with a copy of the summons and complaint. Moreover, upon information and belief, these individuals have not requested legal representation from the Office of the Corporation Counsel. Without making any representation on behalf of these individuals, it is respectfully requested that, in the event they were served, their time to respond to the complaint similarly be enlarged so that their defenses are not jeopardized while representational issues are being decided.

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